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## BOOK REVIEWS.

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A PRACTICAL TREATISE UPON THE LAW OF JUDICIAL WRITS AND PROCESS IN CIVIL AND CRIMINAL CASES. By WILLIAM A. ALDERSON, of the New York Bar. New York: Baker, Voorhis & Co. 1895.

This most interesting volume is, we believe, the first complete survey that has been made of the law of process. Other writers have entered the field from one or more directions, but Mr. ALDERSON has traversed the entire territory, and, as the result of his investigations, has given us a philosophical treatise covering all that is included in his subject.

After a brief historical review of process at the Roman and early English law, he states his definition of the word "writ." He says, it is "an instrument in writing, in an epistolary form, running in the name of the sovereign of a State, issued out of a court of justice or by a judge thereof at the commencement of an action or at any time during its progress, or incident thereto, usually under the seal of the court, duly attested, and directed to some ministerial officer or to the party to be bound by it, commanding the commission of some act at or within a time specified, or prohibiting the doing of some act." If space permitted we could dissect this carefully considered definition, and show how wonderfully Mr. ALDERSON's entire subject is bound up in embryo, as it were, within its terms.

In discussing the validity of process, he contributes a valuable commentary on the term "void" and "voidable," showing the frequency with which, in this connection, the words have been abused. He treats with liberality and common sense the questions of whether the imperfect styling, and the absence of signature or seal, should be allowed to invalidate a writ, and he uses as his text the words of Judge Jenkins in *Wolf v. Cook*, 40 Fed. Rep. 432, to the effect that though a certain amount of ceremonial may be necessary to assist the human mind, "formality should never be permitted to work injustice or deny substantial right."

In treating of "Service on Corporations," the author repudiates the doctrine of his native State (New York) to the effect that a foreign corporation may be served by serving an officer thereof who is inside the jurisdiction solely on his own account, the cause of action not having arisen and the corporation doing no business, within the limits of the jurisdiction. The Federal authorities, and indeed the majority of the State decisions, favor the view taken by the author, and it is to be observed that the Supreme Court of the United States has lately, and since the publication of his book, fortified its former position on the question: *Goldney v. Morning News*, 15 Sup. Ct. Rep. 559.

His discussion of the rule exempting parties and witnesses from service will be found particularly interesting. He heartily approves the position early taken by the Circuit Court of the United States for the Eastern District of Pennsylvania, in *Parker v. Hotchkiss*, 1 Wall. Jr. 269. That decision, it will be remembered, extended the privilege of exemption to the case of a service by summons, as well as to the case of an arrest by *capias*, and though the decision was rendered in the teeth of an opinion by Judge Washington who, forty years before, had followed the practice of the English courts, it has to-day in its support the weight of American authority.

Finally,—for we have not space to give even an outline of the book, we would call attention to the author's valuable chapters on the Rights and Liabilities of Officers in the Execution of Process, Property Subject to Process, and the Return of Process. His exhaustive treatment of the first of these subjects is enough in itself to recommend the book to all Sheriff's and Marshall's Solicitors throughout the country, while his collation and criticism of the authorities under the two other heads, give ample proof of his industry as a student and ability as a lawyer.

While Mr. ALDERSON's research is thorough and profound, he never allows himself to wander out of the straight path before him. His sense of relevancy is always unerring and acute. His style is lucid and direct, and his statement of a case, while it is always succinct, is never so succinct as to be

obscure. Like a skilful draughtsman, he is seldom mistaken in his outline; he sees clearly the principle that underlies a given precedent, and, as in his mind's eye he strips the case of unnecessary clothing, he is able to present it with boldness and precision.

We cannot too much commend the rigid separation which he always observes between the results of the cases and his own opinions. Whenever he approaches a subject as to which there is a conflict of authorities, he is careful to lay both sides before the reader, first one side and then the other, and then in a paragraph headed "*Same subject—Author's views*," he restates the problem boldly and gives his own conclusions. We can say truthfully, and without fear of contradiction, that in these paragraphs headed "Author's Views" is to be found the most valuable portion of his work.

We hope that we have dwelt long enough on the philosophical side of Mr. ALDERSON'S book to make the student wish to read it. The theoretical knowledge of the law of process, which, as we have been told, enabled Judge Cadwalader, while at the bar, to dispense, if he chose, with the printed forms and to draw a writ off hand on a piece of blank foolscap paper, was, after all, part of that profound knowledge of the law which made him subsequently one of the most distinguished of our jurists. Such a theoretical knowledge of the law of process is apparent on every leaf of this most valuable treatise. We should not, however, do the author justice, did we not equally extol the practical aspect of his work. The every-day importance of the subject and the practical handling which it has received, will, we believe, secure to the book a place in the library of every active lawyer.

FRANCIS FISHER KANE.

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HANDBOOK OF CRIMINAL PROCEDURE. By WM. T. CLARK, Jr.,  
Author of Clark's Handbook of Criminal Law, Etc. St. Paul,  
Minn.: West Publishing Co. 1895.

This admirable little volume forms an excellent companion to the Handbook of Criminal Law, issued some months ago by the same author; and what was said in praise of that book